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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicant: [Redacted]

NOV 26 2004

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

**PUBLIC COPY**

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*for Robert P. Wiemann*  
Robert P. Wiemann, Director  
Administrative Appeals Office

*[Faint, illegible text]*

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nicaragua who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or

- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to Nicaraguans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until January 5, 2005, upon the applicant's re-registration during the requisite time period.

The initial registration period for Nicaraguans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on August 15, 2001.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. *See* 8 C.F.R. § 244.2(g).

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On November 17, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence of identity and evidence establishing her qualifying continuous residence and physical presence in the United States. The applicant, in response, provided evidence of identity and nationality and documentation relating to her residence and physical presence in the United States. She also provided a form letter from the California Service Center purportedly dated August 17, 1999, returning a Form I-765, Application for Employment Authorization, for a new signature card.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 18, 2004.

On appeal, the applicant asserts that she submitted a timely Form I-821, Application for Temporary Protected Status, in August 1999. She submits the following evidence:

1. an undated form letter purportedly addressed to the applicant from the California Service Center indicating that a Form I-821 had been submitted on August 22, 1999, and requesting evidence to establish eligibility for late initial registration;
2. an unaddressed, undated form letter from the California Service Center indicating that a TPS application was received after August 20, 1999, and was, therefore, being returned;
3. a mailing envelope addressed to the California Service Center postmarked August 2\_ (number illegible), 1999;
4. a letter dated September 20, 1999, purportedly addressed to the California Service Center, stating that the Form I-821 was submitted on August 17, 1999, but the Form I-765 was returned for a new signature card, and the Form I-821 should have been "accepted for processing."

8 C.F.R. § 103.3(a)(7)(i) states, in pertinent part:

An application or petition received in a Service office shall be stamped to show the time and date of actual receipt and . . . shall be regarded as properly filed when so stamped, if it is properly signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. An application or petition which is not properly signed or is submitted with the wrong filing fee shall be rejected as improperly filed. Rejected applications and petitions, and ones in which the check or other financial instrument used to pay the filing fee is subsequently returned as nonpayable will not retain a filing date. . . .

The record reflects that the applicant submitted a prior Form I-821, Application for Temporary Protected Status, that was received at the California Service Center on August 16, 1999, during the initial registration. It appears that the applicant had failed to sign the application; therefore, the application was returned to the applicant for a signature. The applicant was also requested to sign the "signature card." She returned the signed Form I-821, signature card, and personal check to the California Service Center, and the application package was received at the service center on September 22, 1999, two days after the expiration of the initial registration period. The applicant was then requested to submit evidence to establish that she was eligible for late initial registration. There is no indication in the record that she ever submitted such evidence. Therefore, the service center director rejected the application and returned the application package to the applicant.

The application was not signed when it was received at the California Service Center on August 16, 1999; therefore, it was not properly filed during the initial registration period. The application was received at the California Service Center with signature and signature card on September 22, 1999, but was rejected and returned to the applicant because she had not submitted any evidence to establish her eligibility for late initial registration.

The applicant did not submit the current application until August 15, 2001. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant was apprehended by the United States Border Patrol when she first entered the United States on November 10, 1997. She was subsequently ordered deported in absentia by an Immigration Judge on October 18, 1999. The record contains a Form I-205, Warrant of Removal/Deportation, issued by the District Director, Harlingen, Texas, on October 27, 1999. The warrant is still outstanding.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.